B. Claims 1-14, 18-20, 29, 36 and 38-42 wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a bacterial plant pathogen;

C. Claims 1-14, 18-20, 29, 36 and 38-42 wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a fungal plant pathogen;

D. Claims 1-14, 18-20, 29, 36 and 38-42 wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a nematode plant pathogen;

E. Claims 1-14, 18-20, 29, 36 and 38-42 wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a insect plant pathogen;

F. Claims 1-14, 18-20, 29, 36 and 38-42 wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a mycoplasma plant pathogen;

G. Claim 37 drawn to using a fusion protein wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a plant virus;

H. Claim 37 drawn to using a fusion protein wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a bacterial plant pathogen;

I. Claim 37 drawn to using a fusion protein wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a fungal plant pathogen;

J. Claim 37 drawn to using a fusion protein wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a nematode plant pathogen;

K. Claim 37 drawn to using a fusion protein wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a insect plant pathogen;

L. Claim 37 drawn to using a fusion protein wherein the binding domain portion of the fusion protein (a) recognizes an epitope of a mycoplasma plant pathogen.

Applicants traverse this restriction and rejoinder of the claims is respectfully requested. The main inventive feature of the invention lies within the combination of a binding domain that recognizes an epitope of a plant pathogen and a membrane localization sequence. As such, the invention is not characterized by the nature of the plant pathogen. M.P.E.P. §806.03 clearly instructs that,

> [w]here the claims of an application define the same essential characteristics of a *single* disclosed embodiment of the invention, restriction therebetween should never be required.

The present invention is drawn to proteins that impart pathogen resistance to plants. The embodiment of the invention is fusion proteins that impart pathogen resistance to plants. The invention, as encompassed by all of the claims of Groups A-L share the common essential feature of the combination of a binding domain that recognizes an epitope of a plant pathogen and a membrane localization sequence. As such, the restriction of the claims is improper.

2) The Examiner has further required the following two election of species.

i) The Examiner requires an election of one of the following species of binding domains:

(a) antibodies;

(b) T-cell receptors;

(c) pathogen specific receptors; and

(d) peptide specific receptors.

Applicants traverse this election and rejoinder of the species is respectfully requested. Only four species are disclosed, which is not an unreasonable number of species for examination. As such, Applicants request that all of the listed species be examined.

ii) The Examiner also requires an election of the following species of membrane localization sequences:

(a) human T cell receptor transmembrane domains;

(b) any other member of the immunoglobulin super family;

(c) GPI anchors;

(d) KAR1;

(e) middle-T antigen;

(f) cytochrome b5; and

(g) syn 1.

Applicants traverse this election and rejoinder of the species is respectfully requested. There is only a small number of species presented, which is not an unreasonable number of species for examination. As such, Applicants request that all of the listed species be examined.

In the event that the Examiner does not rejoin the restricted subject matter, Applicants elect with traverse, the invention as encompassed by Group A, Claims 1-14, 18-20, 29, 36 and 38-42 wherein the binding domain portion of the fusion protein recognizes an epitope of a plant virus; and the species (a) antibodies, from the first election of species and (a) human T-cell receptor transmembrane domains, from the second election of species.

Applicants reserve the right to file one or more divisional applications on the restricted subject matter.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact MaryAnne Armstrong, PhD (Reg. No. No. 40,069) at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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